REMARKS

Claims 1-12 are pending in this application. As a result of the Office Action dated September 8, 2004, claims 1-4, 8, 9, 11 and 12 stand rejected under 35 U.S.C. 102(b) as being anticipated by Gulledge, claims 5-7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gulledge in view of the examiner's official notice, and claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Gulledge in view of Franza. These rejections are respectfully traversed in view of the following remarks.

Claim 1 requires a method in which a multiplicity of test connections are established between two terminals. Gulledge provides at column 5, lines 7-9 that "cellular radiotelephone calls are placed between the MQM [mobile quality measurement] system 1 and FQM [fixed quality measurement] system 3 through the cellular radiotelephone system infrastructure 2." Claim 1 requires that "stored protocol parameter values are evaluated by means of a plurality of modules." The Office Action asserts that MQM 1 and FQM 3 in Gulledge are a plurality of modules for evaluating parameters. However, as noted above, MQM 1 and FQM 3 are quality measuring devices. Nothing in Gulledge suggests that evaluation of stored protocol parameter values is carried out by the mobile or fixed quality measuring devices MQM 1 and FQM 3. Gulledge does not show or suggest a step of evaluating stored protocol parameters

using a plurality of modules as required by claim 1.

Claim 1 further requires that, for each module, a module quality value is calculated as a mean value of a plurality of event quality values. The Office Action asserts that this limitation is met by Figure 23 of Gulledge, a flow chart showing how data stored in MQM 1 is matched with data from FQM 3. The "READ," "MATCH" and "UPDATE" steps listed in the Office Action do not comprise or suggest calculating a module quality value in any manner, much less calculating a module quality value as mean value of a plurality of event quality values. Moreover, elements in Gulledge corresponding to event quality values and event types have not been identified.

Claim 1 further requires that a system quality value be calculated from the module quality values. Nothing in Gulledge corresponding to a system quality value is identified in the Office Action, nor is any method for calculating a system quality value from module quality values identified.

Gulledge discloses a method for assessing the quality of cellular networks that has little in common with the claimed invention. As noted above, multiple limitations required by claim 1 are not shown or suggested by Gulledge. Because Gulledge does not disclose every limitation required by claim 1, it is submitted that claim 1 is allowable over Gulledge.

Claims 2-12 depend from claim 1 and are therefore submitted to be allowable for the same reasons as claim 1.

Claims 5-7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gulledge in view of the examiner's Official Notice. Section 2144.03 of the MPEP provides that an examiner can take official notice of such facts as "are capable of instant and unquestionable demonstration as being well-known." It is submitted that the facts officially noticed by the examiner are not of such a character as to be capable of instant and unquestionable demonstration. The MPEP further provides that "if official notice is taken of a fact unsupported by documentary evidence, the technical line of reasoning underlying a decision to take such notice must be clear and unmistakable." No technical line of reasoning has been provided to support the examiner's reliance on official notoce.

In view of the above, Applicant respectfully requests that the examiner provide documentary evidence in support of each of the statements that have been officially noticed or withdraw the rejection of claims 5-7.

It is further noted that even if each statement officially noticed by the examiner is eventually supported by documentary evidence, these statements do not address the shortcomings of Gulledge discussed above in connection with claim 1. Moreover, these statements that are officially noticed are not taken from the claims. Therefore, even if these statements can be supported, they do not establish a basis for finding the subject matter of claims

5-7 obvious unless a motivation to change Gulledge in view of the statements to meet the limitations of claims 5-7 can be identified. Claims 5-7 are submitted to be allowable over the art of record for at least these reasons.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gulledge in view of Franza. Franza does not show or suggest stored protocol parameter values being evaluated by means of a plurality of modules, or a module quality value being calculated as mean value of a plurality of event quality values, or a system quality value being calculated from module quality values all as required by claim 1. Franza thus does not address the shortcomings of claim 1 discussed above, and it is respectfully submitted that claim 10 patentably distinguishes over Gulledge and Franza for at least this reason.

Conclusion

Each issue raised in the Office Action dated September 8, 2004, has been addressed, and it is believed that claims 1-12 are in condition for allowance. Wherefore, the reconsideration and allowance of these claims is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Scott Wakeman (Reg. No. 37,750) at the telephone number of the undersigned below, to conduct an interview

in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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